



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RTID 0648- XB873**

#### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability and request for comments; announcement of public meeting.

**SUMMARY:** The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) have received separate incidental take permit (ITP) applications from the Oregon Department of Forestry (ODF), associated with the Western Oregon State Forests habitat conservation plan (HCP). The HCP has been submitted pursuant to the Endangered Species Act of 1973, as amended (ESA). In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), NMFS announces the availability of a draft environmental impact statement (Draft EIS). NMFS is the lead Federal agency under NEPA, and FWS is a cooperating agency. The Draft EIS analyzes the potential effects of issuance of the ITPs and approval of the HCP. If granted, the ITPs would authorize incidental take of the covered species resulting from the covered activities (see **SUPPLEMENTARY INFORMATION**), as well as take resulting from activities carried out as part of the HCP's conservation strategy.

**DATES:** Written comments must be received by *[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. Any comments received after the closing date may not be considered in the final decision on these actions. NMFS will host a virtual public meeting on April 6, 2022, from 1 to 3 p.m. Pacific Time. Oral comments will be accepted at the public meeting with advance registration.

**ADDRESSES:** You may submit comments in two ways:

*Written Comments:* Written comments on the Draft EIS and HCP submitted with the ITP applications will be accepted via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2021-0019 in the Search Box. Follow instructions for submitting comments on Docket NOAA-NMFS-2021-0019. Please specify in your comments whether the comments provided pertain to the Draft EIS or the HCP. When commenting, please refer to the specific section and/or page number in the subject of your comment.

*Instructions:* Written comments to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on <https://www.regulations.gov>. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

*Oral Comments during the Public Meeting:* NMFS will host a virtual public meeting on April 6, 2022, from 1 to 3 p.m. Pacific Time. NMFS will begin the public meeting by presenting information about the project and the process, and will accept oral comments during the remainder of the meeting. Oral comments received during the public meeting will be recorded, and the transcript uploaded to <https://www.regulations.gov>. The link to the virtual meeting and instructions for registering to provide oral comments are posted at <https://www.fisheries.noaa.gov/action/western-oregon-state-forests-habitat-conservation-plan>. Persons needing reasonable accommodations to participate in the public meetings should contact Michelle McMullin by telephone at (541) 957-3378 or by email at [michelle.mcmullin@noaa.gov](mailto:michelle.mcmullin@noaa.gov) as soon as possible. To allow sufficient time for

processing requests, please submit reasonable accommodation requests no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

*Obtaining Documents for Review:* The Draft EIS and HCP are available for review online at <https://www.fisheries.noaa.gov/action/western-oregon-state-forests-habitat-conservation-plan> and are also available on <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Michelle McMullin, NMFS, 541-957-3378, [Michelle.Mcmullin@noaa.gov](mailto:Michelle.Mcmullin@noaa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **ESA-Listed Species Covered in This Notice**

Species covered by NMFS:

- Coho salmon (*Oncorhynchus kisutch*): Threatened Oregon Coast Evolutionarily Significant Unit (ESU), Threatened Southern Oregon/Northern California Coast ESU, Threatened Lower Columbia River ESU
- Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Upper Willamette River ESU, Threatened Lower Columbia River ESU
- Chum salmon (*Oncorhynchus keta*): Threatened Columbia River ESU
- Steelhead (*Oncorhynchus mykiss*): Threatened Upper Willamette River Distinct Population Segment (DPS)
- Eulachon (*Thaleichthys pacificus*): Threatened Southern DPS.

Species covered by FWS:

- Northern spotted owl (*Strix occidentalis*): Threatened
- Marbled murrelet (*Brachyramphus marmoratus*): Threatened
- Coastal marten (*Martes caurina*): Threatened Coastal DPS.

### **Non-ESA-Listed Species Included in the HCP**

- Oregon Coast spring Chinook (*Oncorhynchus tshawytscha*)

- Southern Oregon/Northern California Coast spring Chinook (*Oncorhynchus tshawytscha*)
- Oregon slender salamander (*Batrachoseps wrighti*)
- Columbia torrent salamander (*Rhyacotriton kezeri*)
- Cascade torrent salamander (*Rhyacotriton cascadae*)
- Red tree vole (*Arborimus longicaudus*).

## **Background**

Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines “take” to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS and FWS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA and implementing regulations (50 CFR 222.307 for NMFS and 50 CFR 17.22(b) and 17.32(b) for FWS) provide for authorizing incidental take of listed species.

NMFS and FWS received separate ITP applications from ODF on February 9, 2022, pursuant to the ESA, as amended (ESA; 16 U.S.C. 1531 *et seq.*). ODF prepared the HCP in support of both ITP applications and is seeking authorization from NMFS and FWS (together, the Services) for incidental take of the species described above.

The ITPs, if issued, would authorize take of the covered species that may occur incidental to ODF’s forest and recreation management activities (the covered activities). These activities include timber harvest; reforestation and young stand management; road system management activities; construction and maintenance of quarries, borrow sites, and stockpile sites; fire management; recreation infrastructure construction and maintenance; and implementation of the HCP’s conservation strategy. A non-listed species that may become listed during the term of the proposed permit can be included in

an HCP and ITP; take coverage would become effective if and when the species is listed.

The HCP specifies the impacts that will likely result from the taking of covered species and describes the steps that ODF will take to minimize and mitigate such impacts. The HCP also describes the covered species' life history and ecology, as well as biological goals and objectives of the HCP, adaptive management, monitoring, and funding assurances.

The proposed issuance of the ITP is considered a Federal action under NEPA, and NMFS determined that preparation of an EIS to analyze the potential impacts on the human (biological, physical, social, and economic) environment caused by the implementation of the HCP was appropriate. The Draft EIS was prepared by NMFS in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), with input from FWS as a cooperating agency. NMFS analyzed five alternatives in detail in the Draft EIS, including the issuance of the ITPs and implementation of the HCP, a no action alternative, and three action alternatives. All alternatives include the forest and recreation management activities listed above. The HCP includes a conservation strategy that ODF would implement to achieve the biological goals and objectives for the covered species and to avoid, minimize, and mitigate impacts of take on listed species. Under the no action alternative, current management practices would continue to guide the management of ODF lands, and ODF would continue to conduct these activities in the absence of the HCP. The action alternatives include Alternative 3, which modifies the proposed action's conservation strategy to increase conservation, Alternative 4, which has a shorter permit term than the proposed action, and Alternative 5, which modifies the proposed action's conservation strategy to increase timber harvest.

The Services are seeking public input on the NEPA analysis in the Draft EIS, including the associated impacts of any reasonable alternatives, as well as comments on the HCP submitted with the ITP applications. We specifically request information on the

following:

1. Biological information, analysis, and relevant data concerning the covered species, other wildlife, and ecosystems.
2. Potential effects that the proposed permit actions could have on the covered species, and other endangered or threatened species, and their habitats, including the interaction of the effects of the project with climate change and other stressors.
3. Adequacy of the proposed actions to minimize and mitigate the impact of the taking on covered species.
4. Potential effects that the proposed permit actions could have on other aspects of the human environment, including effects on plants and animals; water resources; and aesthetic, historic, cultural, economic, social, environmental justice, climate change, or health.
5. The alternatives, information, and analyses submitted during the public scoping period.
6. The alternatives analysis, including the range of alternatives analyzed and the alternatives considered but not analyzed in detail.
7. Relevant reasonably foreseeable environmental trends and planned actions and their possible impacts on the affected environment, including the covered species, as well as any closely related connected actions.
8. Other information relevant to the HCP and its impacts on the human environment.

The Services will each make their permit decisions based on the statutory and regulatory criteria of the ESA. Their decisions will also be informed by the data, analyses, and findings in the EIS and public comments received on the Draft EIS and HCP. The Services will each document their determinations independently in an ESA

section 10 findings document, ESA Section 7 biological opinion, and NEPA Record of Decision developed at the conclusion of the ESA and NEPA compliance processes. If the Services find that all requirements for issuance of the ITPs are met, they will issue the requested permits, subject to terms and conditions deemed necessary or appropriate to carry out the purposes of ESA section 10.

*Additional Information:* NMFS, as the lead Federal agency, has chosen to use the NEPA substitution process to fulfill obligations under the National Historic Preservation Act of 1966, as amended (NHPA). While obligations under NHPA and NEPA are independent, the regulations implementing NHPA allow for the use of NEPA review to substitute for various aspects of the NHPA section 106 (16 U.S.C. 470f) review to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project may have on the human environment (36 CFR 800.3 through 800.6). During preparation of the EIS, NMFS will ensure that the NEPA substitution process will meet any NHPA obligations.

**Authority:** Section 10(c) of the ESA and its implementing regulations (50 CFR 222.307, 50 CFR 17.22, and 50 CFR 17.32) and NEPA and its implementing regulations (40 CFR 1503.1 and 40 CFR 1506.6).

Dated: March 14, 2022.

Angela Somma,

Chief, Endangered Species Division,

Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022-05714 Filed: 3/17/2022 8:45 am; Publication Date: 3/18/2022]